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EDUCATION SECRETARIAT

Dated 18th May 1950.

No. E. 1781 Edn. 24-49-28. The term of the Board of and Examinations in Mysore, reconstituted three years from 11th January 1947, in E. 4426—Edn. 57-46-4, dated 13th December till the end of June 1950.

By Order of His Highness the Maharaja,

A. C. NIRVANI GOWDA,
Secretary to Government,
Education Department.

LAW SECRETARIAT

Dated 18th May 1950.

No. L. S. 442—L.W. 29-50-14. In pursuance of sub-section 4) of section 12 of the Mysore Labour Act, 1942 (Act V of 942). His Highness the Maharaja of Mysore is pleased to irect the publication of the accompanying report of the hief Conciliator in Mysore, Bangalore, in respect of failure f Conciliation Proceedings in the dispute between the Nandy-oorg Mines Labour Association and the Management in gard to several Notices of Change given by the Association o the Management.

By Order of His Highness the Maharaja of Mysore,

B. S. PUTTASWAMY,
Secretary to Government,
Law Department.

OFFICE OF THE CHIEF CONCILIATOR IN MYSORE, BANGALORE.

Camp, Oorgaum dated 6th May 1950.

To

The Secretary to the Government of Mysore,
Law Department, Bangalore.

Subject :—C. C. Nos. 10 and 41—1948-49.

Sir,

Between 12th October 1948 and 14th July 1949 the Nandydrug Mines Labour Association gave several notices of change to the Management. At the conciliation proceedings held to-day in the Guest House, Oorgaum, it was stated by Sri Sabapathy, the President of the Association that most of the disputes covered by the notices issued on 20th April 1949, 28th April 1949, 16th May 1949, 14th June 1949, 12th July 1949 and 14th July 1949 had been settled one way or the other. The remaining disputes relate to the notices of change given on 12th October 1948 and 27th May 1949 respectively. Of these, the first notice of change contains the following two demands :—

(1) Murugasee, 9269, is employed as Out-door Fitter Mestry. But inspite of repeated requests he is neither designated nor paid as Out-door Fitter Mestry. The Association through this notice seeks to get him designated as Out-door Fitter Mestry and paid according to that rank.

(2) John, 9283, Annamalai, 9299, are working as Carpenters but are not paid as such. This notice is to get them designated as Carpenters and paid as such."

The case of Murugasee is clearly explained in the letter of the Superintendent to the President of the Association written on 28th September 1948. According to this letter Muragasee is graded Fitter First Grade in range Rs. 1-9-0 to Rs. 2-5-0. Strictly speaking, he should have been classified as M.6. Head Mestry Pipe Fitting Service in grade Rs. 1-6-0 to Rs. 1-14-0. As Murugasee is already getting Rs. 1-14-0, the Management consider that he would be hard hit if he were re-classified as Head Mestry Pipe Fitting Section on Rs. 1-6-0 to Rs. 1-14-0. If, however, the Association attaches more importance to designation than to wages the Management can have no objection to change his designation and give him the wages attached thereto.

Sri Sabapathy's argument is that this man, in addition to his being a Pipe Fitter, has also under him 3 or 4 people whose work he supervises. He therefore suggests that he be given some sort of an allowance if the Management are unwilling to give him the status and scale of wages of an Outdoor Fitter Mestry. Mr. W. T. Hocking, the Superintendent pointed out that an outdoor fitter mestry was one who was capable of handling machinery, while Murugasee knew nothing about machinery and had never handled them in his life. It would therefore be unjust to that class of workmen if Murugasee were graded up to their level. Besides there were a large number of Pipe Fitter Mestries working underground who would claim the same treatment as was claimed for Murugasee. In the circumstances the Management were not in favour of conceding this demand. Sri Sabapathy felt unconvinced with the argument advanced by Mr. Hocking and would not withdraw the demand.

As regards John and Annamalai the case of the Association is that they are really doing the work of carpenters though they are treated as helpers to carpenters for purposes of wage payment. Both these are experienced men who can independently work as carpenters, Mr. Hocking points out that these two men have never been entrusted with independent carpentry work and that they are even now working as assistants to carpenters. If vacancies arise and if these men are found fit the Management would be glad to absorb them. But, till then, there is no justification to treat them as carpenters and give them higher wages. Sri Sabapathy was not satisfied with this vague assurance and would not withdraw the demand.

The second notice of change dated 27th May 1949 contains four demands. Of these the first three have been either settled or withdrawn. That which remains reads as follows :—

"It has been the custom for the scavengers to receive from their employers double wages for their work during any strike period. The employees of the mine have been on strike from 1st February 1949 to 31st March 1949. The employer-company breaking the custom paid only normal wages to the scavengers for the strike period. The Association through this notice of change, requests the Management to pay the seavengers the usual extra wages for the strike period."

The background for this dispute is somewhat like this. In the year 1945 there was a strike on the Mine which was declared illegal by the Registrar. The scavengers also had struck work on that occasion. But on the intervention of the Deputy Commissioner they resumed work on the Management's agreeing to pay them double the usual wages. In the following year too there was a strike which was however declared to be legal. On this occasion also the scavengers were persuaded to carry on their duties and got double wages for the strike period.

The case for the Association is based on the two precedents referred to above. It feels that as the scavengers perform an essential service in a period of great anxiety to the management it is but right that their services should receive appropriate recognition especially in view of the fact that on previous occasions they were given double the wages. Mr. Hocking however is not willing to show them any special concession. He points out that like these scavengers, there were a number of men who worked underground during the strike period and got only the normal wages. It would be invidious to favour the scavengers and not extend the same concession to the underground workers also. Besides, a decision in favour of the scavengers belonging to this mine would have repercussions on the other mines as well. The latter had not given double wages to their scavengers during the strike period. For these reasons he was unwilling to concede this demand. Several alternative proposals for recognising their services were considered but had to be given up as it was found impossible to evolve a formula which would limit the claim to this mine only. Sri Sabapathy was not prepared to withdraw the demand. In the result, the conciliation proceedings in both the cases ended in failure and this report is accordingly made under section 12(4) of the Act.

Yours faithfully,

K. SUBBA RAO,
Chief Conciliator.

1245

Dated 18th May 1950.

No. L.S. 445—L.W. 29-50-16. In pursuance of sub-section (4) of Section 12 of the Mysore Labour Act, 1942 (Act XIII of 1942), His Highness the Maharaja of Mysore is pleased to direct the publication of the undermentioned report of the Chief Conciliator in Mysore, Bangalore, in respect of failure of Conciliation Proceedings in the dispute between the Management and the Labour Association of the Mysore Gold Mining Co., Ltd., in regard to four notices of change given by the Association to the Management.

By Order of His Highness the Maharaja,

B. S. PUTTASWAMY,
Secretary to Government,
Law Department.

1246

OFFICE OF THE CHIEF CONCILIATOR IN MYSORE, BANGALORE.

Camp Oorgaum No. C. C. 30—48-49, dated 6th May 1950.

To

The Secretary to the Government of Mysore,
Law Department, Bangalore.

Sir,

There are four disputes between the Mysore Mine Labour Association and the Management arising out of four notices of change given by the Association in which I held conciliation proceedings to-day in the Guest House at Oorgaum. The Association was represented by its office bearers while Mr. J. I. T. Dickson, the Superintendent of the Mine appeared on behalf of the Management.

The first notice of change dated 9th September 1949, reads as follows :—

"Sri Kunji Nair, T. No. 6770, Perumal, T. No. 681, Daniel, T. No. 108 and Perumal, T. No. 1564 were employees of the Mysore Gold Mining Company, Ltd., Gold smuggling cases have been foisted on them and they were prosecuted before the local I Class Magistrate who acquitted them. Inspite of repeated requests they have not been reinstated. The Mysore Mines Labour Association through this notice of change seeks the re-employment of these persons compensating their loss of wages for the period during which they were forced to be out of employment."

Two cases of illegal attempts to extract gold from gold bearing quartz were detected underground and the above people were prosecuted under Sections 6 and 13 of the Mysore Mine Act before the Special First Class Magistrate, Kolar Gold Fields, in C. C. Nos. 586 and 1309 of 1948-49. After the prosecution evidence was recorded Kunji Nair was discharged on the ground that no *prima-facie* case had been made out against him. The other three people were given the benefit of doubt and acquitted. The Management however, dealt with them departmentally and dismissed them under standing order No. 22 (d).

In the proceedings before me the Association argued that as these persons had been held to be not guilty by a competent tribunal it was not open to the Management to invoke the aid of a standing order and terminate their services. The reply of the Superintendent was that this argument was not acceptable to the Management as even the arbitration tribunal which gave its award in 1945 had recognised that the acquittal in a Criminal Court was no bar to the Management taking disciplinary action under standing orders. At its suggestion standing order 22 (d) as it then stood was amended as follows :—

"Theft or abetment of theft, fraud, or dishonesty in connection with Company's business or property".

The Superintendent states that after these people were discharged or acquitted by the Court he carefully perused the judgement and took every circumstance into consideration before he decided to act under the above standing order. The second case was disposed of nearly eight months after the occurrence. It was therefore not surprising that the Magistrate found discrepancies in the prosecution evidence. Kunji Nair was perhaps prosecuted under a wrong section. Strictly speaking, he could not be charged with being found with unlawful possession of gold. This case against him really was that while his companions were engaged in grinding gold bearing quartz he mounted guard at the entrance. He should have been charged for abetment of the offence. There w no justification whatever, to reconsider the case of the individuals and reinstate them. The Association not bei satisfied with the attitude taken up by the Manageme refused to withdraw the notice.

The second notice of change is dated 12th October 1949 a reads as follows :—

"After the general strike in February and in March th year about 29 workers were dismissed from t Mysore Mine under standing order 22 (k).

It is very improper to have applied to standing orders these 29 workers only when the whole mine was strike. We therefore request the Management immediately re-instate them in their jobs."

It was pointed out to the Association that the list of the workers had not been furnished in the notice. The Supe intendent stated that only the ring-leaders who had instigat or taken an active part in the general strike that had bee dealt with under the standing order, and that having rega to the seriousness and magnitude of the strike it w impossible for the Management to reconsider their decisio and take them back to duty. The Association persisted in i demand and refused to withdraw it.

The third notice of change is dated 21st December 19 and the annexure reads as follows :—

"The labourers mentioned overleaf have been dismisse from service on 23rd November 1949 by t Management of the Mysore Gold Mining Compan Ltd., without giving them any reason for the dismissal. The Association through this notice change requests the Management to reinstate the men paying them wages and other privileges for t period in which they were forced to be witho work".

Overleaf.—

1	Muniswamy	... ...	1218
2	Muniswamy	... ...	2292
3	Thangaraj	... ...	2501
4	Nayagam	... ...	7511
5	Aseervadam	... ...	2228
6	William	... ...	2515
7	Muniswamy	... ...	1024
8	Kistan	... ...	2739
9	Muniswamy	... ...	7295
10	Seetha	... ...	1555
11	Gengan	... ...	1107
12	Rathinam	... ...	661
13	Dharman	... ...	1206
14	Perumal	... ...	1269
15	Chinnapyan	... ...	2972
16	Isral	... ...	1833
17	Bagiyanathan	... ...	1776
18	Simson	... ...	1913
19	Singaram	... ...	498
20	Ponnurangam	... ...	799

At the very outset the Superintendent of the Mine point out that the 20 men referred to in the notice of change h not been dismissed at all. They had been discharged und standing order 21 (c) with 10 days' pay in lieu of notice, a no other penalty. The Management had perfect right to se away any man they did not want to have. The stay-in strik which led to the termination of the services of these men w of a so serious a character that the mine and all its valuab property were at the mercy of the strikers for nearly 30 hour In that interval any thing might have happened. The fa that no serious accident occurred could not be pleaded i extenuation of the part played by the ring-leaders an their followers. The Government considered the situation s grave that they permitted the Mining authorities to keep th mine closed for over 20 days by issuing a notification unde Section 42 of the Labour Act declaring a state of emergency What had happened on the mine was really a concerte mutiny. In the circumstances the discharge of these me was perfectly justified. The argument of the Association wa that while most of the men had been taken back to dut there was really no justification to victimise a few individual on mere suspicion that they must have taken a prominen part in the affair. For aught one knew, they might b perfectly innocent individuals against whom the managemen bore some grudge. There was no sort of enquiry. The cas against these men was not stated to them and they were no called upon to defend themselves against the charges. Th standing order invoked in aid of the action taken against them must be held to be *ultra vires* as it was opposed to th spirit and provisions of the Labour Act. For these reason the Association pressed its demand but the Superintenden was unable to accept it.

The fourth notice of change is dated 1st December 1949 It deals with many matters such as increase in basic wage